

Anti-Fraud, Bribery and Corruption Policy and Procedure

CG09

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Applies to:	All those who work for NHS Resolution including its employees, agency workers, secondees and contractors
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Author:	Scott Hyde, Corporate Governance Lead and Catherine O'Sullivan, Head of Corporate and Information Governance
Owner:	Joanne Evans, Director of Finance and Corporate Planning

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1. Introduction

- 1.1** NHS Resolution operates a zero tolerance approach to fraud, bribery and corruption. It is committed to the elimination of fraud within NHS Resolution, the rigorous investigation of any such allegations and to taking appropriate action against wrongdoers, including possible criminal prosecution
- 1.2** This document is set out in two parts, the Policy and its component parts and the Fraud Response Plan which outlines the roles and responsibilities for raising, investigating and responding to suspected fraud, bribery and corruption.
- 1.3 Clinical and Non-Clinical Claims:** Please note that procedures are in place within Claims which must be followed by all claims handlers for identifying and handling claims where there is a need to validate claims, and for carrying out claims validation investigations.
- 1.4** The table below sets out the action to be taken if you discover or suspect any fraudulent activity:

This includes	What to do	Do
Fraud Any deliberate intention to make a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another i.e. the NHS. This could be through the falsification of any records or documents or obtaining any service(s) and/or failing to disclose information.	If any of these concerns come to light you must immediately report your suspicions and what you have discovered to one of the following: The Local Counter Fraud Specialist (LCFS): LCFS contacts are – Alison Atkins or John Alway alison.atkins@giaa.gov.uk M: 07581 047538 Johnpaul.alway@giaa.gov.uk M: 07814 943 706 GIAA direct email NHSRInternalFraud@hmtreasury.gov.uk Director of Finance and Corporate Planning: Joanne Evans	Tell someone! Confidentiality will be respected. Any delay might cause the organisation to suffer further financial loss. Make a note of your concerns! Note all relevant details, what was said, the date time and names of all parties involved. Keep a record or copy any documentation that arouses your suspicion.
Bribery Anything that induces or intends to induce improper performance. This covers offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe, and failing to prevent bribery. Where someone is influenced by bribery, payment of benefit-in-kind to unreasonably use their position to give some advantage to another.	The NHS Fraud Reporting Line: 0800 028 40 60 or online www.cfa.nhs.uk/reportfraud Protect (formerly Public Concern at Work): 020 7404 6609 Confidentiality will be maintained and all matters will be dealt with in accordance with NHS Counter Fraud standards. You will not suffer any recriminations as a result of raising concerns – You have protection under The Public Interest Disclosure Act 1998.	Do Not - Confront the individual(s) with your suspicions. - Try to investigate the matter yourself. - Contract the police directly. - Convey your suspicions to anyone other than those with the proper authority as listed. - Do Nothing!

1.5 This policy relates to all forms of fraud, corruption and bribery and is intended to provide direction and help to all those who may identify or suspect fraud. The policy details the organisation's commitment to the proper use of public funds and outlines the roles and responsibilities for the prevention of fraud. It provides a framework for responding to suspicions of fraud, advice and information on various aspects of fraud and implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting fraud and corruption. The overall aims of this policy are to:

- Improve the knowledge and understanding of everyone in NHS Resolution, irrespective of their position, about the risk of fraud and corruption within the organisation and its unacceptability.
- assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly.
- set out NHS Resolution's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and corruption.
- ensure that appropriate sanctions are considered following an investigation, which may include criminal prosecution, civil proceedings, disciplinary action and regulatory body action.

1.6 This document sets out NHS Resolution's policy for dealing with detected or suspected fraud and bribery, as incorporated in NHS Counter Fraud Authority (NHSCFA) Anti-Fraud, Bribery and Corruption Standards for Providers.

2. Equality impact assessment

2.1 NHS Resolution aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It is a requirement that we conduct equality impact assessments on all policies and services within the organisation.

2.2 The purpose of the assessment is to minimise and, if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, pregnancy and maternity, marriage and civil partnership, gender reassignment, sexual orientation, religious or other belief. As part of its development, this policy and its impact on equality have been reviewed in consultation with trade union and other employee representatives in line with NHS Resolution's equality impact assessment tool (Appendix 1).

3. Scope

3.1 This policy applies to all employees of NHS Resolution, regardless of position held, as well as Non-Executive Directors (NEDs) consultants, vendors, contractors, and/or any other parties who have a business relationship with NHS Resolution. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all of the above to report any concerns they may have concerning fraud and bribery.

- 3.2 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of NHS Resolution's Equality, Diversity and Inclusion Policy (HR01). Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

4. Definitions

4.1 Fraud

- Any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006. Fraud can be committed in three ways:
 - Fraud by false representation (s.2)
 - Lying about something using any means, e.g. by words or actions.
 - Fraud by failing to disclose (s.3)
 - Not saying something when you have a legal duty to do so.
 - Fraud by abuse of a position of trust (s.4)
 - Abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

- 4.2 All offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

4.3 Bribery

- Bribery is generally defined as offering, promising, giving or receiving, accepting or agreeing to accept a financial or other advantage to encourage that person to perform their functions or activities improperly, such as with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith, or to reward that person for having already done so. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.
- Bribery does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.
- It is a common law offence of bribery to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.
- Bribery prosecutions tend to be most commonly brought using specific pieces of legislation dealing with bribery, i.e. under the following:
 - Bribery Act 2010
 - The Anti-terrorism, Crime and Security Act 2001.

4.4 Theft

- The dishonest taking of property belonging to another with the intention of depriving that other permanently of its possession.

5. Policy

- 5.1 All employees have a personal responsibility to protect the assets of NHS Resolution, including all buildings, equipment and monies from fraud, theft, or bribery.
- 5.2 It is expected that Non-Executive Directors (NEDs) and staff at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.
- 5.3 NHS Resolution is absolutely committed to maintaining an honest and open environment within NHS Resolution, so as to best fulfil the objectives of NHS Resolution and of the NHS. It is, therefore, also committed to the elimination of fraud within NHS Resolution, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.
- 5.4 NHS Resolution wishes to encourage anyone having reasonable suspicions of fraud to report them. NHS Resolution's policy, which will be rigorously enforced, is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including fraud and bribery, which they believe to be happening within NHS Resolution employing them. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.
- 5.5 Any malicious allegations will be subject to a full investigation and appropriate disciplinary action.
- 5.6 NHS Resolution expects anyone having reasonable suspicions of fraud to report them. It recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and, thus, employees should report the matter to their Local Counter Fraud Specialist who will then ensure that procedures are followed.
- 5.7 NHS Resolution has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders (CG10), Standing Financial Instructions (FINP02), documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, NHS Resolution seeks to ensure that a comprehensive anti-fraud and bribery culture exists throughout the organisation via the appointment of a dedicated Local Counter Fraud Specialist (LCFS) in accordance with NHS Counter Fraud Authority (NHSCFA) Anti-Fraud, Bribery and Corruption Standards.

- 5.8 Bribing anybody is absolutely prohibited. NHS Resolution employees will not pay a bribe to anybody. This means that you will not offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly (including creating the appearance of an effort to improperly influence another person). It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person. Similarly, you are not permitted to receive a financial or other advantage from any person in order to induce you to perform your function or activities improperly.
- 5.9 Off-the-book accounts and false or deceptive booking entries are strictly prohibited. All gifts, payments or any other contribution, whether in cash or in kind, shall be documented, regularly reviewed, and properly accounted for on the books of NHS Resolution. Record retention and archival policy must be consistent with NHS Resolution's accounting standards, tax and other applicable laws and regulations.
- 5.10 NHS Resolution procures goods and services ethically and transparently with the quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. NHS Resolution will not engage in any form of bribery, neither in the UK nor abroad. NHS Resolution and all employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy.
- 5.11 NHS Resolution may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited
- 5.12 All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this Policy. NHS Resolution will contractually require its agents and other intermediaries to comply with this Policy and to keep proper books and records available for inspection by NHS Resolution, auditors or investigating authorities. Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. NHS Resolution will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement even if this may result in a loss of business
- 5.13 Where NHS Resolution is engaged in commercial activity (irrespective as to what happens to the profit) it could be considered guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for NHS Resolution and it cannot demonstrate that it has adequate procedures in place to prevent such.
- 5.14 The adequate procedures put in place by the organisation to prevent bribery are informed by six principles – proportionate procedures, top-level commitment, risk assessment, due diligence, communication (including training), monitoring and review.

- 5.15 Proportionate procedures in place to mitigate the identified risk include the following:
- all staff must disclose their business interests, prior to commencement of employment with NHS Resolution;
 - all staff must disclose any new business interests immediately to NHS Resolution;
 - all staff must declare hospitality and gifts (in line with the Conflicts of Interest Policy (CG06))

5.16 NHS Resolution will undertake risk assessments to assess how bribery may affect the organisation at least every three years. The risk assessment, which will be informed by the Home Office's bribery and corruption assessment template, will be undertaken by a nominated officer such as the LCFS, who will report to the Director of Finance and Corporate Planning or nominated NHS Resolution officer.

5.17 For more information, please refer to the Ministry of Justice – The Bribery Act 2010 Guidance.

5.18 NHS Resolution does not tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

5.19 Facilitation payments

- Facilitation payments are small payments made to secure or expedite the performance of a routine action, typically by a government official or agency (e.g. issuing licenses or permits, installation of a telephone line, processing goods through customs, etc.) to which the payer (or the company) has legal or other entitlement.
- Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given by NHS Resolution or by NHS Resolution's employees in the UK or any other country.

5.20 Gifts and hospitality

Courtesy gifts and hospitality must not be given or received in return for services provided or to obtain or retain business but shall be handled openly and unconditionally as a gesture of esteem and goodwill only. Gifts and hospitality shall always be of symbolic value, appropriate and proportionate in the circumstances, and consistent with local customs and practices. They shall not be made in cash. Please refer to NHS Resolution's Conflicts of Interest Policy (CG06) for more guidance.

5.21 Political and Charitable contributions

- NHS Resolution does not make any contributions to politicians, political parties or election campaigns.

- As a responsible member of society, NHS Resolution may make charitable donations. However, these payments shall not be provided to any organisation upon suggestion of any person of the public or private sector in order to induce that person to perform improperly the function or activities which he or she is expected to perform in good faith, impartially or in a position of NHS Resolution or to reward that person for the improper performance of such function or activities.
- Any donations and contributions must be ethical and transparent. The recipient's identity and planned use of the donation must be clear, and the reason and purpose for the donation must be justifiable and documented. All charitable donations will be publicly disclosed.
- Donations to individuals and for-profit organisations and donations paid to private accounts are incompatible with NHS Resolution's ethical standards and are prohibited.

5.22 Sponsoring

- Sponsoring means any contribution in money or in kind by NHS Resolution towards an event organised by a third party in return for the opportunity raise NHS Resolution's profile. All sponsoring contributions must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the consideration offered by the event host. They may not be made towards events organised by individuals or organisations that have goals incompatible with NHS Resolution's ethical standards or that would damage NHS Resolution's reputation. All sponsorships will be publicly disclosed. Please refer to NHS Resolution's Conflicts of Interest Policy (CG06) for more guidance.
 - Where commercial sponsorship is used to fund NHS Resolution training events, training materials and general meetings, the sponsorship must be transparent, for legitimate business purposes, and proportionate to the occasion. Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published minutes/proceedings.
 - Where sponsorship links to the development of guidelines and advice, this should be carried out in consultation with the Senior Compliance Officer in conjunction with the appropriate NHS Resolution working group independent of the sponsors. While it is recognised that consultation with the industry may be necessary when developing a guideline, the overall decision on what is included should lie with the relevant NHS Resolution working group.

6. Key principles from the Counter Fraud, Bribery and Corruption Strategy

6.1 NHS Resolution's [Counter Fraud, Bribery and Corruption Strategy](#) defines the strategic approach to countering fraud, bribery and corruption to be taken by NHS Resolution with the aim to:

- Embed a counter fraud culture at NHS Resolution
- Identify and manage fraud risks
- Prevent and Deter Fraud
- Detect fraud
- Ensure Continuous Improvement

7. Codes of conduct

7.1 The codes of conduct for NHS boards and NHS managers set out the key public service values. They state that high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. These values are summarised as:

- **Accountability** Everything done by those who work in NHS Resolution must be able to stand the test of parliamentary scrutiny, public judgements on property and professional codes of conduct.
- **Probity** Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers and customers.
- **Openness** NHS Resolution's actions should be sufficiently public and transparent to promote confidence between NHS Resolution and its key stakeholders, employees and the public.

7.2 In addition, all those who work for or are in contract with NHS Resolution should exercise the following when undertaking their duties:

- **Selflessness** should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends
- **Integrity** should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties
- **Objectivity** should, in carrying out public business, (including making public appointments, awarding contracts, or recommending individuals for rewards and benefits), make choices on merit
- **Accountability** are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
- **Openness** should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest demands
- **Honesty** have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest
- **Leadership** should promote and support these principles by leadership and example

These are The Nolan Principals, which are the basis of the ethical standards expected of public office holders and apply to anyone in such roles.

7.3 NHS Resolution's Code of Conduct (HR34) sets out the expected behaviours and standards required of all those who work for NHS Resolution including its employees, agency workers, secondees and contractors.

8. Roles and responsibilities

8.1 NHS Counter Fraud Authority (NHSCFA)

NHSCFA has responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting the NHS and wider health service, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.

A copy of the NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 is available at:

<https://cfa.nhs.uk/about-nhscfa/corporate-publications>

8.2 Chief Executive

The Chief Executive has the overall responsibility for funds entrusted to the organisation as the Accountable Officer (AO). This includes instances of fraud and bribery. The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation and the public funds entrusted to it.

8.3 Board

The Board and Non-Executive Directors (NEDs) should provide clear and demonstrable support and strategic direction for counter fraud, bribery and corruption work. The board will review the proactive management, control and the evaluation of counter fraud, bribery and corruption work. The Board and NEDs will scrutinise NHSCFA assessment reports, where applicable, and ensure that the recommendations are fully actioned.

8.4 Audit and Risk Committee

The Audit and Risk Committee are responsible for seeking assurance that the organisation has adequate arrangements in place for countering fraud and bribery and compliance with NHSCFA Standards. This will include but is not limited to reports from the Local Counter Fraud Specialist (LCFS) and from NHSCFA inspection reports. Actions resulting from counter fraud activity including NHSCFA quality assessment reports will be monitored. The committee is also responsible for approving the annual counter fraud work plan and the outcomes of all anti-fraud and bribery work within NHS Resolution. Further information on the responsibilities of the audit committee can be found in the NHS Audit Committee Handbook 2018 which can be accessed online via <https://www.hfma.org.uk/publications?Type=Guide>.

8.5 NHS Resolution

- NHS Resolution has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, NHS Resolution has a duty to ensure that those concerns are listened to and addressed.

- NHS Resolution's Chief Executive is liable to be called to account for specific failures in NHS Resolution's system of internal controls. However, responsibility for the operation and maintenance of controls falls to line managers and requires the involvement of all NHS Resolution employees. NHS Resolution therefore has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities. Therefore, the Chief Executive and Director of Finance and Corporate Planning will ensure the monitoring and compliance with this policy.
- NHS Resolution will provide anti-bribery training to all relevant employees on a regular basis to make them aware of our Anti-Fraud, Bribery and Corruption Policy and guidelines, including possible types of bribery, the risks of engaging in bribery activity, and how employees may report suspicion of bribery. In addition, all NHS Resolution staff are required to complete on-line fraud training on an annual basis.

8.6 Employees

- This Policy applies to all who work for NHS Resolution, including its employees, agency workers, secondees and contractors, Board and its Sub Committee Members (including Co-Opted Members) and Honorary Members of the Board.
- Employees are required to comply with NHS Resolution's policies and procedures and apply best practice to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be made aware of their own responsibilities in protecting NHS Resolution from these crimes.
- Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.
- All employees should be aware that fraud and bribery (of finances of the NHS) will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.
- NHS Resolution's employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.
- Employees must act in accordance with NHS Resolution's Code of Conduct (HR34) and Conflicts of Interest Policy (CG06) which include guidance on the receipt of gifts or.
- Employees also have a duty to protect the assets of NHS Resolution including information, goodwill and reputation, as well as property.
- Employees are expected to act in accordance with the standards laid down by their Professional body(ies) where applicable, and have a personal responsibility to ensure that they are familiar with them.

- NHS Resolution's Standing Orders (CG10) and Standing Financial Instructions (FINP02) place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all NHS Resolution staff and Non-Executive Directors must declare and register any interests that might potentially conflict with those of NHS Resolution or the wider NHS in accordance with the Conflicts of Interest Policy (CG06).
- In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:
 - act with honesty, integrity and in an ethical manner
 - avoid acting in any way that might cause others to allege or suspect them of dishonesty
 - behave in a way that would not give cause for others to doubt that NHS Resolution's employees deal fairly and impartially with official matters
 - be alert to the possibility that others might be attempting to deceive.
- All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.
- When an employee suspects that there has been fraud or bribery, they must report the matter to the nominated Local Counter Fraud Specialist (LCFS) and / or NHS Counter Fraud Authority (NHSCFA).

8.7 Line managers

- Line managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to. They have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting NHS Resolution from it. They are also responsible for the enforcement of disciplinary action against staff who do not comply with policies and procedures.
- Line managers should be alert to the possibility that unusual transactions, particularly those with no obvious commercial rationale, could be symptoms of fraud, bribery and corruption. If they have any doubts, they must seek advice from the Local Counter Fraud Specialist (LCFS).
- Line managers must instill and encourage a zero-tolerance culture within their team with regards to criminal wrongdoing. The LCFS will proactively assist in this endeavour by undertaking work to raise fraud awareness and create deterrence effects.
- Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud and bribery therefore primarily rests with managers but requires the co-operation of all employees.

- As part of that responsibility, line managers need to:
 - Inform staff of NHS Resolution's Code of Conduct Policy (HR34), Conflicts of Interest Policy (CG06) and this Anti-fraud, Bribery and Corruption Policy (CG09) as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms
 - ensure that all employees for whom they are accountable are made aware of the requirements of the policy
 - assess the types of risk involved in the operations for which they are responsible
 - ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively
 - be aware of NHS Resolution's Anti-Fraud, Bribery and Corruption Policy (CG09) and the rules and guidance covering the control of specific items of expenditure and receipts
 - identify financially sensitive posts
 - ensure that controls are being complied with
 - contribute to their director's assessment of the risks and controls within their business area, which feeds into NHS Resolution's and the Department of Health and Social Care Accounting Officer's overall statements of accountability and internal control.
- All instances of actual or suspected fraud or bribery, which come to the attention of a line manager, must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager, however, in such cases managers must not attempt to investigate the allegation themselves, and they have the clear responsibility to refer the concerns to the LCFS and / or NHS Counter Fraud Authority (NHSCFA) as soon as possible.

8.8 Local Counter Fraud Specialist (LCFS)

- The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national NHS Counter Fraud Authority (NHSCFA) standards and reports directly to the Director of Finance and Corporate Planning. As specified by NHSCFA, the LCFS will carry out tasks in accordance with the standards as detailed in the four key areas:
 - **Strategic Governance** This section sets out the standards in relation to the organisation's strategic governance arrangements. The aim is to ensure that anti-crime measures are embedded at all levels across the organisation.
 - **Inform and Involve** This section sets out the requirements in relation to raising awareness of crime risks against NHS and working with NHS staff, stakeholders and the public to highlight the risks and consequences of crimes against the NHS.

- **Prevent and Deter** This section sets out the requirements in relation to discouraging individuals who may be tempted to commit crimes against NHS and ensuring that opportunities for the crime to occur are minimised.
- **Hold to Account** This section sets out the requirements in relation to detecting and investigating crime, prosecuting those who have committed crimes and seeking redress.
- This will include the undertaking of risk assessments to identify fraud, bribery and corruption risks at the organisation.
- The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption.
- The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the Director of Finance and Corporate Planning and reported accordingly.
- Investigation of the majority cases of alleged fraud within NHS Resolution will be the responsibility of NHS Resolution's LCFS. NHSCFA will only investigate cases which should not be dealt with by NHS Resolution. Following receipt of all referrals, NHSCFA will add any known information or intelligence and determine if a case should be investigated by NHSCFA.
- The LCFS will regularly report to the Director of Finance and Corporate Planning on the progress of the investigation and when/if referral to the police is required.
- The LCFS in consultation with the Director of Finance and Corporate Planning will review the strategic objectives to determine any potential fraud or bribery risks. Where risks are identified these will be included on NHS Resolution's risk register so the risk can be proactively addressed.

8.9 Director of Finance and Corporate Planning

- The Director of Finance and Corporate Planning is provided with powers to approve financial transactions initiated by directorates across the organisation. As part of this role they are responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal checks
- The Director of Finance and Corporate Planning in conjunction with the Chief Executive monitors and ensures compliance of NHS Counter Fraud Authority (NHSCFA) Standards for Providers.
- The Director of Finance and Corporate Planning, in consultation with NHS Counter Fraud Authority and the LCFS, will decide whether there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.
- The Director of Finance and Corporate Planning or the LCFS will consult and take advice from the Deputy Director of HR & OD if a member of staff is to be interviewed or disciplined. The Director of Finance and Corporate Planning or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate disciplinary investigation.

- The Director of Finance and Corporate Planning will, depending on the outcome of investigations (whether on an interim/on-going or a concluding basis) and/or the potential significance of suspicions that have been raised, inform appropriate senior management and the Chair of NHS Resolution and the Chair of the Audit and Risk Committee of cases, as may be deemed appropriate or necessary, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.
- The Director of Finance and Corporate Planning is also responsible for informing the Audit and Risk Committee of all categories of loss.
- The Director of Finance and Corporate Planning will report annually to the Board on the adequacy of internal financial control and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the organisation's annual report.

8.10 Senior Compliance Officer

- NHS Resolution has appointed the Director of Finance and Corporate Planning as the Senior Compliance Officer to be responsible for ensuring that NHS Resolution is compliant with the requirements of the Bribery Act 2010, implementing anti-bribery guidelines and monitoring compliance. The Senior Compliance Officer will review annually the suitability, adequacy and effectiveness of the Authority's anti-bribery arrangements and implement improvements as and when appropriate.
- The Senior Compliance Officer directly reports to the Chief Executive. Once a year, The Director of Finance and Corporate Planning reports the results of the reviews to the Board.
- Any incident or suspicion that comes to attention of the Senior Compliance Officer will be passed immediately to the LCFS.

8.11 Internal and External Audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. While this role does not include uncovering instances of fraud, bribery and corruption, any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS.

8.12 Human Resources

Human Resources will liaise closely with managers and the LCFS, when an employee or other worker is suspected of being involved in fraud, in accordance with agreed liaison protocol. Human Resources are responsible for advising on the appropriate use of NHS Resolution's Disciplinary Policy and Procedure (HR10) and on matters of good practice and employment law, such as disciplinary and complaints procedures. Close liaison between the LCFS and HR will be essential to ensure that any parallel criminal and disciplinary action and sanctions are applied effectively and in a coordinated, fair and non-discriminatory manner.

Human Resources will ensure that appropriate steps are taken when new employees are appointed to establish, as far as possible, their previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, agency workers are treated in the same manner as employees.

8.13 Information Management & Technology

The Head of Information Security (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone and PDA use. The employee's line manager and Human Resources will be informed if there is a suspicion that an employee is involved.

8.14 External Communications

Individuals (be they employees, agency workers, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance and Corporate Planning or the Chief Executive.

8.15 External parties

Those organisations undertaking work on behalf of NHS Resolution are expected to maintain strong anti-fraud principles and have adequate controls in place to prevent fraud when handling public funds and dealing with customers on behalf of NHS Resolution. Contractors and sub-contractors acting on NHS Resolution's behalf are responsible through contractual arrangements put in place during the tender process and through contracts, for compliance with the Bribery Act 2010.

9. Fraud Response Plan

9.1 Introduction

- NHS Resolution operates a zero-tolerance approach to employee fraud, bribery and corruption. It is committed to the elimination of fraud within NHS Resolution, the rigorous investigation of any such allegations and to taking appropriate action against wrongdoers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.
- This Fraud Response Plan sets out the actions both the organisation and individuals should take in response to suspicions of fraud, bribery and corruption. It applies to all employees of NHS Resolution, regardless of position held, as well as Non-Executive Directors (NEDs), consultants, vendors, contractors, and/or any other parties who have a business relationship with NHS Resolution.
- It is expected that all employees of NHS Resolution, at all levels, will lead by example, acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures. This Plan outlines the roles and responsibilities for managing and responding to suspected fraud, bribery and corruption.
- **Every employee** in NHS Resolution is responsible for:
 - complying with NHS Resolution's policies and procedures and applying best practice to prevent fraud, bribery and corruption;

- conducting themselves in accordance with the NHS Resolution's Code of Conduct (HR34) and Conflicts of Interest Policy (CG06);
 - protecting NHS Resolution's assets, including public funds, information, property and reputation;
 - conducting themselves in accordance with the seven principles set out in the 'Standard in Public Life' i.e. selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
 - complying with NHS Resolution Conflicts of Interest Policy (CG06) including hospitality and gifts;
 - being alert to the possibility that unusual events, incidents or transactions could be indicators of fraud;
 - identifying the risk of fraud and taking steps to prevent it;
 - reporting any suspicious acts or events through the appropriate channels;
 - fully co-operating with internal checks, reviews and investigations.
- **Line Managers** are additionally responsible for:
 - ensuring policies, procedures and processes within their local area are adhered to;
 - ensuring staff are aware of fraud, bribery and corruption and for the enforcement of disciplinary action against staff who do not comply with policies and procedures;
 - instilling a zero-tolerance culture to fraud, bribery and corruption within their team;
 - ensuring an effective system of internal control exists, including those to prevent and detect fraud, is reviewed and maintained within their areas of responsibility;
 - understanding and assessing the fraud risks in their area of responsibility;
 - ensuring compliance with internal controls, policies and procedures;
 - implementing new controls to reduce the risk of similar incidents occurring where fraud has occurred
 - ensuring all staff are treated fairly and within the provisions and spirit of NHS Resolution's Equality, Diversity and Inclusion Policy (HR01).

9.2 How to report concerns

- NHS Resolution expects anyone having reasonable suspicions of fraud to report them. It is NHS Resolution's policy that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including fraud and bribery. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.
- If you suspect fraud, bribery or corruption:
 - do not ignore it;
 - be discreet to ensure confidentiality is maintained and the alleged perpetrator is not forewarned;
 - act quickly and carefully, immediately reporting your concerns as set out in this document;
 - seek advice from counter fraud experts;

- do not attempt to investigate the matter yourself as you might destroy or corrupt valuable evidence or compromise the investigation. Concentrate on providing as much information as is readily available such as names, dates, times, transactions, invoice number etc. but without discussing it with colleagues or removing any documentation
- If you suspect any employee of NHS Resolution (see paragraph 8.1.2) is involved in fraud, bribery or corruption or has abused their position, you must report your suspicions immediately to the Local Counter Fraud Specialist (LCFS) (see paragraph 8.2.4) or the Director of Finance and Corporate Planning.
- The Government Internal Audit Agency's (GIAAs) Counter Fraud and Investigation team, provides independent, specialist counter fraud services to government organisations. It is the LCFS and operates a fraud reporting service for NHS Resolution. Concerns can be raised by:
 - telephone on 0113 208 3850
 - by email at NHSRInternalFraud@hmtreasury.gov.uk; or
 - by completing the online reporting [form](#) available on NHS Resolution's intranet (Connect).
- Concerns can also be raised through the NHS Fraud and Corruption Reporting Line, on Freephone 0800 028 40 60, as an alternative to internal reporting procedures and if staff wish to remain anonymous. All information provided is treated in complete confidence and all calls are dealt with by experienced call handlers.
- If your concern relates to a member of the management team, you should report the matter to the LCFS. Alternatively, it can be raised with the Chair of the Audit & Risk Committee, the Chair of NHS Resolution or you can contact NHS Counter Fraud Authority (NHSCFA) [directly](#).
- If the concern relates to the LCFS this should be raised directly with the GIAA using the contact details shown at paragraph 8.2.4 or alternatively to the NHSCFA using the contact details shown in paragraph 8.2.6.
- Offers of bribes must be refused in all circumstances and immediately reported to the LCFS or Director of Finance and Corporate Planning. If in doubt, contact either of the above for advice and, for guidance on gifts and hospitality, refer to the NHS Resolution [Code of Conduct \(HR34\)](#) and [Conflicts of Interest Policy \(CG06\)](#).
- An open and honest culture is extremely important to NHS Resolution. We expect anyone raising concerns to do so in adherence to our PEER values (Professional, Expert, Ethical, Respectful). In line with our Raising Concerns (Freedom to Speak Up) Policy (CG17), if you raise a genuine concern in good faith, you will be supported by the organisation – you will not be at risk of losing your job or suffering any form of detriment as a result of raising a concern. We will not tolerate the harassment or victimisation of anyone raising a concern or any attempt to bully you into not raising a concern.
- To support the reporting of fraud using the NHS Counter Fraud Authority (NHSCFA) fraud reporting process (as outlined above) all employees should be aware of NHS England's National Freedom to Speak Up Policy for the NHS June 2022. This provides the minimum standards for raising of concerns in the NHS for the benefit of all patients in England.
- An aide memoire for the necessary action if you discover or suspect fraudulent activity is included at Appendix 2.

9.3 Investigating fraud, bribery and corruption

- Investigation of the majority cases of alleged fraud within NHS Resolution will be the responsibility of NHS Resolution's Local Counter Fraud Specialist (LCFS). NHS Counter Fraud Authority (NHSCFA) will only investigate cases which should not be dealt with by NHS Resolution. Following receipt of all referrals, NHSCFA will add any known information or intelligence and determine if a case should be investigated by NHSCFA.
- All suspicions of fraud, bribery and corruption will be investigated. Each case will be considered individually on its own facts and merits, with a consistent, open-minded and thorough approach applied in all cases to protect the interests of both the NHS Resolution and the suspected individual(s). Suspicion should not infer guilt and care must be taken to avoid alerting others when gathering evidence during preliminary enquiries.
- Where required by NHS Resolution, investigations may be conducted by the Government Internal Audit Agency's (GIAA's) Counter Fraud and Investigation team.
- NHS Resolution will ensure appropriate steps are taken to remove or reduce the threat, at the earliest opportunity, and enable any criminal and disciplinary proceedings to be undertaken without delay.
- Human Resources will liaise closely with managers and the LCFS when an employee or other worker is suspected of fraud, in accordance with agreed liaison protocol. Human Resources are responsible for advising on the appropriate use of NHS Resolution's Disciplinary Procedure, good practice and employment law. Close liaison between the LCFS and HR will be essential to ensure any parallel criminal and disciplinary action and sanctions are applied effectively and in a coordinated, fair and non-discriminatory manner.
- The Director of Finance and Corporate Planning or the LCFS will consult and take advice from the Deputy Director of HR and OD if a member of staff is to be interviewed or disciplined.
- Investigations will be conducted in line with applicable criminal, legislative and internal procedural requirements.
- The LCFS will regularly report to the Director of Finance and Corporate Planning on the progress of the investigation and when/if referral to the police is required.
- The LCFS will advise on matters that should be reported to Action Fraud.
- Where an objective investigation has found evidence of fraud, bribery or corruption, the next step is to pursue appropriate sanctions. The range of available sanctions that may be pursued includes:
 - criminal prosecution. The Local Counter Fraud Specialist (LCFS) will work in partnership with NHS Counter Fraud Authority (NHSCFA), the police and/or the Crown Prosecution Service to bring a case to court. Outcomes can range from a criminal conviction to fines and imprisonment;
 - civil action can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs. This can include action to freeze assets and recover losses;

- disciplinary action by NHS Resolution where an employee is suspected of being involved in a fraudulent or illegal act; and
- action by a relevant regulatory body, if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution.
- While multiple sanctions may be pursued at the same time in relation to the same incident, the processes involved should be run separately, to maintain their integrity and ensure that all decision making is impartial and independent. This is because the purposes, rules of evidence, standards of proof and outcomes for different types of sanction differ significantly.
- Each case will be considered individually on its own facts and merits, based on applying a consistent and thorough approach in all cases to ensure
 - The most effective investigations are undertaken, including the gathering and assessment of all relevant material which may form evidence of fraud, bribery, corruption, misconduct and/or unfitness to practice;
 - the most appropriate sanction or combination of sanctions is sought where fraud, bribery, corruption or related misconduct is/are identified.
 - The appropriate senior manager, in conjunction with the HR&OD) department, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed. In all cases, current legislation must be complied with.

9.4 Criminal and disciplinary proceedings

- Criminal and disciplinary proceedings can be pursued concurrently, and disciplinary action can be pursued where criminal action is not taken.
- NHS Resolution's Disciplinary Policy and Procedure (HR10) will be followed where an employee is suspected of being involved in a fraudulent or other illegal act, or where their negligent action has led to fraud being perpetuated. The duty to follow disciplinary procedures will not override the need for matters to be reported to the police and appropriate legal action to be taken. In the event of doubt, statute will prevail.
- Civil action can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.

9.5 Police involvement

- In accordance with the NHS Counter Fraud & Bribery Manual, the Director of Finance and Corporate Planning, in conjunction with the Local Counter Fraud Specialist (LCFS) and NHS Counter Fraud Authority (LCFA), will decide whether a case should be referred to the police. The Director of Finance and Corporate Planning and line managers will be involved as necessary. Any referral to the police will not prohibit action being taken under NHS Resolution disciplinary procedures.
- The LCFS will work in partnership with NHSCFA, the police and/or the Crown Prosecution Service to bring a case to court. NHS Resolution and its employees will cooperate fully with police enquiries and the NHS Resolution recognises a police investigation may take precedence over any internal investigation or disciplinary process.

9.6 Recovery of assets

- NHS Resolution will consider recovering losses or misappropriated assets in cases where a fraud has been proven, whether through Court proceedings or following internal disciplinary proceedings.
- The appropriate senior manager, in conjunction with the Human Resources, will be responsible for initiating any necessary disciplinary action. Where appropriate, arrangements will be made to recover losses via payroll if the subject is still employed by NHS Resolution.
- Seeking financial redress or recovery of losses will always be considered in cases of fraud or bribery, investigated by the Local Counter Fraud Specialist (LCFS) or NHS Counter Fraud Authority (NHSCFA) where a loss is identified.
- The NHS anti-fraud manual provides in-depth details of how sanctions can be applied where fraud and corruption is proven and how redress can be sought. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost. When considering seeking redress recovery may also be sought from on-going salary payments or pensions
- Depending on the extent of the loss and the proceedings in the case, the NHSCFA can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money or assets is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation.
- Action to recover losses will be commenced as soon as practicable after the loss has been identified. Given the various options open to the Authority, it may be necessary for various departments to liaise about the most appropriate option.
- In some cases (taking into consideration all the facts of a case), it may be that the Authority, under guidance from the LCFS and with the approval of the Director of Finance and Corporate Planning, decides that no further recovery action is taken.
- In order to provide assurance that policies were adhered to, the Director of Finance and Corporate Planning will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

9.7 Lessons learned

- NHS Resolution is committed to learning from cases of fraud, bribery or corruption. Monitoring is essential to ensure controls are appropriate and robust enough to prevent or reduce fraud. This will include reviewing system controls on an on-going basis and identifying weaknesses in processes. Where deficiencies are identified as a result of monitoring, the organisation will ensure appropriate recommendations and action plans are developed and progress tracked.
- The Local Counter Fraud Specialist (LCFS) will measure the volume of referrals received and types, reporting to the organisation to determine whether further activity is required to promote the NHS Resolution's counter fraud measures, including reporting channels. The organisation may review these measures following an incident of fraud or bribery to establish its effectiveness.

- System and procedural weaknesses are identified in reports by the LCFS following reactive and proactive work. Suggested recommendations for improvement are tracked by the NHS Counter Fraud Authority (NHSCFA) and LCFS to ensure implementation.
- The Director of Finance and Corporate Planning will, depending on the outcome of investigations and/or the potential significance of suspicions raised, inform appropriate senior management and the Chairs of NHS Resolution and the Audit and Risk Committee of cases, as deemed appropriate. Factors include where the loss may be above an agreed limit or where the incident may lead to adverse publicity.
- The Audit and Risk Committee will receive periodic reports on the progress of NHS Resolution's counter fraud activities and will also be responsible for approving the annual counter fraud work plan and the outcomes of all anti-fraud and bribery work within NHS Resolution.

9.8 Review of the Fraud Response Plan

- This Plan will be reviewed annually by the NHS Resolution Corporate and Information Governance Team and the Local Counter Fraud Specialist (LCFS) Government Internal Audit Agency (GIAA).

10. Implementation and monitoring effectiveness

Following the approval of any changes to this Policy, the updated Policy will be published on the Intranet (Connect) and communicated to all staff through the weekly staff bulletin (This Week). Where roles and/or duties have changed within this Policy, direct communication will be made by the Policy Author to the relevant staff.

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an on-going basis and identifying weaknesses in processes. Where deficiencies are identified as a result of monitoring, the organisation will ensure that appropriate recommendations and action plans are developed and progress of the implementation of recommendations is tracked.

To measure the effectiveness of the policy, the LCFS will measure the number of referrals received, where the referrals arise from and the allegation types being received.

Detail will be reported to the organisation to determine whether further efforts to promote the policy need to be undertaken, and whether further work needs to be undertaken to promote the policy and its requirements.

The organisation may review the policy following an incident of fraud or bribery to establish its effectiveness.

As a result of reactive and proactive work completed throughout the financial year, closure reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and highlight suggested recommendations for improvement. The Authority, together with the LCFS will track the recommendations to ensure that they have been implemented.

Additional information

Abuse of or non-compliance which constitutes criminal activity will be subject to criminal investigation and the application of appropriate criminal sanction.

11. Links to related documents

	Counter Fraud, Bribery and Corruption Strategy
FINP02	Standing Financial Instructions
CG10	Standing Orders (previously FINP01)
CG21	Procurement Policy
HR34	Code of Conduct
CG17	Raising Concerns (Freedom to Speak Up) Policy (previously HR03 Whistleblowing Policy)
HR10	Disciplinary Policy and Procedure
CG06	Conflicts of Interest Policy (including previous HR04 Hospitality and Gifts)
HR16	Recruitment and Selection Policy

12. Document control

Date	Author	Version	Reason for change
July 2017	Catherine O'Sullivan	Draft V1.0	Review of policy in line with NHS Protect Standards
November 2017	Gemma Higginson	Draft V2.0	Comments and amends suggested by Local Counter Fraud Specialist (LCFS), to ensure the policy and procedure is in line with NHS Protect Standards
November 2017	Catherine O'Sullivan	V2.1	Update the contact details for LCFS and name change of NHS Protect to NHS CFA
December 2017	Catherine O'Sullivan	V2.2	Minor amends following SMT discussion.
January 2018	Catherine O'Sullivan	V2.3	Moved reporting concerns table to start of document
January 2018	Board	Final Version	Board Approved
January 2019	Evelyn Lucien	Final Version	Change of LCFS contact details
October 2020	Gemma Higginson	V3.0 Draft	Reviewed and updated text
October 2020	Catherine O'Sullivan	V3.1 Draft	Reviewed LCFS amends

October 2020	ORG and SMT	V3.2 Draft	Review of suggested amends and recommend for Board approval
November 2020	Board	Final Version	Board gave approval
September 2022	Emma Jones	-	Updated LCFS contacts
August 2023	Scott Hyde	V4.1 Draft	Minor amendments for review by LCFS
October 2023	Scott Hyde	V4.2 Draft	Inclusion of Fraud Response Plan
18th October 2023	SMT	V4.2 Draft	Endorse for approval subject to consideration of comments received through consultation.
October 2023	Scott Hyde	V4.3 Draft	Minor amendments to incorporate comments received through consultation.
24 th January 2024	Board	V4 Final	Approved offline on 16 th February 2024 following 24 th January Board meeting. Formally ratified at the 20 th March 2024 Board meeting.
6 th March 2024	S Hassell	-	Minor fix to hyperlink
June 2024	Emma Jones	-	Updated LCFS contact details (pages 3 and 34)

Appendix 1 - Equality impact assessment tool

No.	Does the document/guidance affect one group less or more favourably than another on the basis of:	Yes/No	Comments
1.	Race	No	
2.	Ethnic origins (including gypsies and travellers)	No	
3.	Culture	No	
4.	Nationality	No	
5.	Age	No	
6.	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	Consider reasonable adjustments
7.	Gender	No	
8.	Gender reassignment	No	
9.	Marriage and civil partnership	No	
10.	Pregnancy and maternity	No	
11.	Religion and belief	No	
12.	Sex	No	
13.	Sexual orientation including lesbian, gay and bisexual people	No	
14.	Is there any evidence that some groups are affected differently?	No	
15.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
16.	Is the impact of the document/guidance likely to be negative?	No	
17.	If so, can the impact be avoided?	N/A	
18.	What alternative is there to achieving the document/guidance without the impact?	N/A	
19.	Can we reduce the impact by taking different action?	N/A	
Name/s and job title/s of individual/s who carried out the Assessment:			Date of the Assessment
Scott Hyde, Corporate Governance Lead			October 2023

Appendix 2 - Action if you discover or suspect fraudulent activity

Do:

- make a note of your concerns
 - record all relevant details, such as the nature of your concern, the names of the parties you believe to be involved, details of any telephone or other conversations with names, dates, times and any witnesses;
 - notes don't need to be overly formal, but should be timed, signed and dated;
 - timeliness is important, the longer you delay writing up, the greater the chances of recollection becoming distorted.
- retain any evidence you may have
 - the quality of evidence is crucial. The more direct and tangible the evidence, the better the chances of an effective investigation.
- report your suspicions promptly

Don't:

- be afraid of raising your concerns
 - the Civil Service Code and the Public Interest Disclosure Act provide protection for employees who raise reasonably held concerns through the appropriate channels;
 - you will not suffer discrimination or victimisation as a result of following these procedures and the matter will be treated sensitively and confidentially.
- share your concerns to anyone other than authorised persons
 - there may be a perfectly reasonable explanation for the events that create your suspicion. Spreading unsubstantiated concerns may harm innocent persons or impact an investigation.
- approach the person you suspect or try to investigate the matter yourself
 - investigations should be conducted by appropriate persons and in line with expected standards and legislation. Failure to undertake an investigation correctly may adversely impact the investigation outcome.

Clinical and Non Clinical Claims: Please note that procedures are in place within Claims which must be followed by all claims handlers for identifying and handling claims where there is a need to validate claims, and for carrying out claims validation investigations.

Appendix 3 – Anti Fraud, Bribery and Corruption roles and responsibilities

Role	Who	What
Accountable Officer at Board level	Helen Vernon	To provide leadership to ensure NHS Resolution is managing the risk of fraud, bribery and corruption
Senior Counter Fraud lead	Joanne Evans	Accountable for the day-to-day management of the fraud, bribery and corruption risk
Counter Fraud Champion	Cat O'Sullivan	To promote counter fraud, bribery and corruption awareness and understand the threats posed and the prevailing cross government fraud landscape

Appendix 4 - The Fraud Act 2006

1. Summary

Section 1 of The Fraud Act sets out provisions for a general offence of fraud. There are several new offences created the main three being sections 2, 3 and 4. The Act also creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in fraud, as well as containing a new offence of fraudulent trading applicable to non-corporate traders.

2. Section 2: Fraud by false representation

It is an offence to commit fraud by false representation. The representation must be made dishonestly. This test applies also to sections 3 and 4 below. The current definition of dishonesty was established in *R v Ghosh* [1982] Q.B.1053. That judgment sets a two-stage test. The first question is whether a defendant's behaviour would be regarded as dishonest by the ordinary standards of reasonable and honest people. If answered positively, the second question is whether the defendant was aware that his conduct was dishonest and would be regarded as dishonest by reasonable and honest people.

The person must make the representation with the intention of making a gain or causing loss or risk of loss to another. The gain or loss does not actually have to take place.

A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. A representation means any representation as to fact or law, including a representation as to a person's state of mind.

A representation may be express or implied. It can be stated in words or communicated by conduct. There is no limitation on the way in which the representation must be expressed. It could be written or spoken or posted on a website.

A representation may also be implied by conduct. An example of a representation by conduct is where a person dishonestly misuses a credit card to pay for items. By tendering the card, he is falsely representing that he has NHS Resolution to use it for that transaction. It is immaterial whether the merchant accepting the card for payment is deceived by the representation.

This offence would also be committed by someone who engages in "phishing": i.e. where a person disseminates an email to large groups of people falsely representing that the email has been sent by a legitimate financial institution. The email prompts the reader to provide information such as credit card and bank account numbers so that the "phisher" can gain access to others' personal financial information.

A representation may be regarded as being made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention). The main purpose of this provision is to ensure that fraud can be committed where a person makes a representation to a machine and a response can be produced without any need for human involvement. (An example is where a person enters a number into a "CHIP and PIN" machine.)

3. Section 3: Fraud by failing to disclose information

Section 3 makes it an offence to commit fraud by failing to disclose information to another person where there is a legal duty to disclose the information. A legal duty to disclose information may include duties under oral contracts as well as written contracts.

For example, the failure of a solicitor to share vital information with a client within the context of their work relationship, in order to perpetrate a fraud upon that client, would be covered by this section. Similarly, an offence could be committed under this section if for example an NHS employee failed to disclose to NHS Resolution that certain patients referred by him for private treatment are private patients, thereby avoiding a charge for the services provided by that NHS employee during NHS time.

4. Section 4: Fraud by abuse of position

Section 4 makes it an offence to commit a fraud by dishonestly abusing one's position. It applies in situations where the defendant has been put in a privileged position, and by virtue of this position is expected to safeguard another's financial interests or not act against those interests.

The necessary relationship will be present between the Trustee and beneficiary, director and company, professional person and client, agent and principal, employee and employer, or between partners. It may arise otherwise, for example within a family, or in the context of voluntary work, or in any context where the parties are not at arm's length.

The term "abuse" is not limited by a definition, because it is intended to cover a wide range of conduct. The offence can be committed by omission as well as by positive action. For example, an employee who fails to take up the chance of a crucial contract in order that an associate or rival company can take it up instead at the expense of the employer commits an offence under this section.

An employee of a software company who uses his position to clone software products with the intention of selling the products on would commit an offence under this section.

Another example covered by this section is where a person who is employed to care for an elderly or disabled person has access to that person's bank account and abuses his position by removing funds for his own personal use.

Note: It is now no longer necessary to prove a person has been deceived in the above offences. The focus is now on the dishonest behavior of the suspect and their intent to make a gain or cause a loss.

5. Section 5: (not relevant for the purposes of this document)

6. Section 6: Possession etc. of articles for use in frauds

Section 6 makes it an offence for a person to possess or have under his control any article for use in the course of or in connection with any fraud. This wording draws on that of the existing law in section 25 of the Theft Act 1968 (These provisions make it an offence for a person to "go equipped" to commit a burglary, theft or cheat, although they apply only when the offender is not at his place of abode).

Proof is required that the defendant had the article for the purpose or with the intention that it be used in the course of or in connection with the offence, and that a general intention to commit fraud will suffice.

7. Section 7: Making or supplying articles for use in frauds

Section 7 makes it an offence to make, adapt, supply or offer to supply any article knowing that it is designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit or facilitate fraud. For example, a person makes devices which when attached to electricity meters cause the meter to malfunction.

8. Section 8: "Article"

Section 8 extends the meaning of "article" for the purposes of sections 6 and 7 and certain other connected provisions so as to include any program or data held in electronic form. Examples of cases where electronic programs or data could be used in fraud are: a computer program can generate credit card numbers; computer templates can be used for producing blank utility bills; computer files can contain lists of other peoples' credit card details or draft letters in connection with 'advance fee' frauds.

1.1 Section 9: Participating in fraudulent business carried on by sole trader etc.

Section 9 makes it an offence for a person knowingly to be a party to the carrying on of fraudulent business where the business is not carried on by a company or (broadly speaking) a corporate body.

- A person commits the offence of fraudulent trading
- dishonesty is an essential ingredient of the offence;
- the mischief aimed at is fraudulent trading generally, and not just in so far as it affects creditors;
- the offence is aimed at carrying on a business but that can be constituted by a single transaction; and
- It can only be committed by persons who exercise some kind of controlling or managerial function within the company.

9. Section 10: (not relevant for the purposes of this document)

10. Section 11: Obtaining services dishonestly

Section 11 makes it an offence for any person, by any dishonest act, to obtain services for which payment is required, with intent to avoid payment. The person must know that the services are made available on the basis that they are chargeable, or that they might be. It is not possible to commit the offence by omission alone and it can be committed only where the dishonest act was done with the intent not to pay for the services as expected.

It requires the actual obtaining of the service. For example, data or software may be made available on the Internet to a certain category of person who has paid for access rights to that service. A person dishonestly using false credit card details or other false personal information to obtain the service would be committing an offence under this section.

The section would also cover a situation where a person climbs over a wall and watches a football match without paying the entrance fee - such a person is not deceiving the provider of the service directly, but is obtaining a service which is provided on the basis that people will pay for it.

Section 11 also covers the situation where a person attaches a decoder to her television to enable viewing access to cable / satellite television channels for which they has no intention of paying for.

11. Section 12: Liability of company officers for offences by company

This section repeats the effect of section 18 of the Theft Act 1968. It provides that company officers who are party to the commission of an offence under the Bill by their body corporate will be liable to be charged for the offence as well as the company. It applies to directors, managers, secretaries and other similar officers of a company. If the body corporate charged with an offence is managed by its members the members involved in management can be prosecuted too.

12. The Fraud Act 2006 repeals the following Theft Act offences:

- **Theft Act 1968**
 - Section 15 (obtaining property by deception).
 - Section 15A (obtaining a money transfer by deception).
 - Section 15B (Section 15A: supplementary).
 - Section 16 (obtaining a pecuniary advantage by deception).
 - Section 20(2) (procuring the execution of a valuable security by deception).
- **Theft Act 1978**
 - Section 1 (Obtaining services by deception).
 - Section 2 (evasion of liability).
 - The Act came into force on 15th January 2007 and carries a maximum sentence of 10 years imprisonment with the exception of the 'going equipped offence' which is 5 years

Appendix 5 – The Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited

1. Offences of bribing another person

Case 1 is where a Authority employee offers, promises or gives a financial or other advantage to another person and intends the advantage (i) to induce that or another person to perform improperly a relevant function or activity, or (ii) to reward that or another person for the improper performance of such a function or activity.

Case 2 is where an Authority employee offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of Authority. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by a Authority employee or through a third party, e.g. an agent or other intermediary.

2. Offences relating to being bribed

Case 3 is where a Authority employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by him-/herself or another person).

Case 4 is where an Authority employee requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper performance by him-/herself of a relevant function or activity.

Case 5 is where an Authority employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by him-/herself or another person) of a relevant function or activity.

Case 6 is where, in anticipation of or in consequence of a Authority employee requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly (i) by that, or (ii) by another person at his/her request or with his/her assent or acquiescence.

Again, the bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of Authority.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether a Authority employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of a Authority employee or another person.

In Cases 4 to 6, it does not matter whether a NHS Authority employee knows or believes that the performance of the function or activity is improper.

3. Bribery of foreign public officials

Case 7 is where an Authority employee bribes a foreign public official and intends (i) to influence that official in his/her capacity as a foreign public official and (ii) to obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.

4. Failure of commercial organisations to prevent bribery

A corporate or partnership is guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

If any concerns come to light you must immediately report your suspicions and what you have discovered to one of the following:

The Local Counter Fraud Specialist (LCFS):

- LCFS contacts are – Alison Atkins or John Alway
- Alison.atkins@giaa.gov.uk M: 07581 047538
- Johnpaul.alway@giaa.gov.uk M: 07814 943 706
- GIAA direct email NHSRInternalFraud@hmtreasury.gov.uk

Director of Finance and Corporate Planning: Joanne Evans

The NHS Fraud Reporting Line:

- 0800 028 40 60 or online
www.cfa.nhs.uk/reportfraud

Protect (formerly Public Concern at Work): 020 7404 6609

Confidentiality will be maintained and all matters will be dealt with in accordance with NHS Counter Fraud standards.

You will not suffer any recriminations as a result of raising concerns – You have protection under The Public Interest Disclosure Act 1998.